

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. NO. 2657/90

14

New Delhi this the 14th day of July, 1995

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

Shri Charan Singh,
S/o Shri Nathu Ram,
R/o Vill & PO: Khera,
(Carterpuri),
Distt: Gurgaon
(Haryana)

...Applicant.

By Advocate Shri K.K. Jaggi.

Versus

1. Union of India through
Secretary,
Department of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi.
2. Member (Personnel),
Postal Services Board,
Ministry of Communications,
Department of Posts,
Dak Bhavan Sansad Marg,
New Delhi.
3. The Chief Postmaster General,
Delhi Circle,
Meghdoot Bhawan,
Juande-Walan,
New Delhi.
4. Director Postal Services,
Office of the Chief Postmaster General,
Delhi Circle, Meghdoot Bhawan,
New Delhi.
5. The Senior Supdt. of Post Offices,
New Delhi West Division,
Naraina Industrial Estate,
New Delhi.
6. Shri P.C. Verma,
Asstt. Supdt.,
Foreign Post, Kotla Road,
New Delhi.
7. Shri A.L. Gupta,
Enquiry Officer and
Asstt. Supdt. (Investigation),
Office of the Chief Postmaster General,
Meghdoot Bhawan,
New Delhi.

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8. Assistant Supdt. of Post Offices,
New Delhi (West),
2nd Sub Division,
Naraina Industrial Estate,
New Delhi.

.. Respondents.

By Advocate Shri B. Lall.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan.

The applicant was a Post Master who has been removed from service in pursuance of the disciplinary proceedings initiated against him. He filed an appeal which has been dismissed. He also filed a revision which has been dismissed by the Member (Personnel), Postal Service Board. Hence, he has filed this application seeking to quash all the impugned orders and for consequential benefits.

2. A memo of charges dated 7.4.1986 (Annexure A-7) was issued to the applicant by Shri P.C. Verma, Assistant Superintendent of Post Office, New Delhi Western Division, N.Delhi initiating the proceedings under Rule 14 of the CCS(CCA) Rules. There are four articles of charges against the applicant which are reproduced below:

"Article No. I.

It is alleged that the said Shri Charan Singh while working as Postman Tilak Nagar Post Office in Beat No. 14 on 13.9.85 and 14.9.85 failed to effect the payment of 25 MO's as mentioned in Annexure-II (issued to him a/w the sum equal to the value of MO's on the said dates) to the respective payees and also to deliver the 27 Regd. Articles as mentioned in Annexure II to the respective addressees, violating the provision of Rule

Article No. II.

It is alleged that on the aforesaid dates the said Shri Charan Singh while working as Postman Tilak Nagar Post Office in beat No. 14 himself signed on 25 MO's mentioned in Annexure I as payees violating the provision of Rule 706(2) of P&T Manual Vol-VI, Pt-III.

Article No. III.

It is alleged that on the aforesaid dates, the said Shri Charan Singh while working as Postman Tilak Nagar Post Office in beat No. 14, himself signed on delivery slips as addressees/receiver of the 27 regd. Article mentioned in Annexure II violating the provision of Rule 703 of P&T Manual Vol. VI Pt. III.

Article No. IV.

It is alleged that on the aforesaid dates the said Shri Charan Singh while working as Postman Tilak Nagar Post Office in beat No. 14 showed the 25 MOs as paid and pocketed the value of MOs. He also showed the 27 Regs. Articles mentioned in Annexure II as delivered to the respective addressees by signing himself as addressees on the dely. slips. It is further also alleged that by doing so Shri Charan Singh failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Govt. servants violating the provisions of Rule 3(I)(i) (ii) and (iii) of CCS Conduct Rules 1964 and he also betrayed the confidence reposed in him".

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3. A statement of imputations was served on him along with the charge sheet and he was also given the particulars about the list of documents by which the charges would be proved as also the list of witnesses who would be examined.

4. An Inquiry Officer was appointed who has held the Annexure A-9 ^{u Enquiry Report} /that the charges are proved against the applicant beyond doubt. Agreeing with the findings, the disciplinary authority, namely, the Senior Superintendent of Post Offices, Western Division, New Delhi, passed the impugned order dated 28.9.1988 (Annexure A-III) in which he found the applicant guilty and imposed penalty of removal from service. The appeal has been dismissed by the Annexure A-II dated 16.2.1989 and the revision petition was dismissed by the Annexure A-I order dated 16.12.1989 by the Member (Personnel), Postal Services Board.

5. The applicant has challenged his order on a number of grounds. However, when the matter came for hearing, we noticed that during preliminary inquiry the applicant himself had given his statement admitting the charges. It is seen from the Annexure A-7 memo by which the charges were communicated to the applicant that in the statement of imputations it is alleged that during the inquiries the applicant gave a statement on 30.9.1985 admitting that he himself signed as payee on the receipt and acknowledgement portion of all the 25 money orders and pocketed the value for his use and that he himself

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signed on the delivery slips as receiver of the 27 Regd. Articles and that he did not deliver the same to the addressees. It is noticed from para 4.34 of the Inquiry Officer's report (Annexure A-9) that the applicant who was examined on 21.3.1978 by the Inquiry Officer had confirmed that the statements given by him on 30.9.1985 are correct and that they were in his own hand. This has also been referred to by the disciplinary authority in his Annexure A-3 order. In other words, this is a case where, during the preliminary inquiry, a delinquent had admitted all the charges. However, when the disciplinary proceedings were initiated and the memo of charges was issued, he did not admit the charges and, therefore, an inquiry had to be conducted.

6. The learned counsel for the applicant states that a number of irregularities have been committed on the basis of which he has assailed the various impugned orders.

7. We have carefully considered the matter. In the present case, the delinquent has not only, before the commencement of the inquiry, given a statement admitting the facts and the basis of the charges framed but also confirms ^{it} ~~that~~ during the inquiry proceedings that such a statement was given by him. We are of the view that in this special circumstance, irregularities, if any, committed could not in any circumstance vitiate the inquiry conducted or the decision taken on the basis thereof.

8. That only legal issue raised by the learned counsel for the applicant was that Shri P.C. Verma was not competent to initiate the disciplinary proceedings. He states that the applicant was Head Postman working under a Postmaster in the Higher Selection grade. According to him, it is only this Postmaster who was competent to initiate the disciplinary proceedings.

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9. The learned counsel refers to Rule 13 of the CCS(CCA) Rules, 1965 which provides that a disciplinary authority who is competent to impose the minor penalty mentioned in items (i) to (iv) of Rule 11 may institute the disciplinary proceedings. The learned counsel contends that Shri P.C. Verma, Assistant Superintendent Post Offices did not have such an authority.

10. On our direction, the learned counsel for the respondents have produced the relevant orders. We notice that on 12.7.1984 an order has been issued under sub-rule (2) of Rule 9 and other relevant rules of the CCS(CCA) Rules by which an amendment was carried out in Part-III of the Schedule. That schedule indicates who is the authority competent to impose the penalties in respect of various categories of officers. Admittedly, the post of Postman held by the applicant at the relevant time is not covered by any of the categories mentioned in Column 1, which specified the names of the post. Therefore, his post is covered under the residuary category "All other posts". In respect of such posts, it is stated in Column 2 as follows:

"Dy. Presidency Postmaster, Dy. Postmasters Service Gr. 'B' Gazetted Postmaster including Gazetted Sub-Postmaster in charge of Town Sub Offices, Postmaster in Higher or Lower Selection Grade (in his own office) except a Postmaster incharge of a Town Sub-Office; Officer in charge of a Sub-Divisional (in all other offices)".

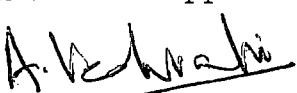
These authorities are empowered to impose the minor penalties. Learned counsel for the applicant, therefore, submitted that as the applicant was working under Postmaster who was in Higher Selection Grade, he alone could have initiated the disciplinary proceedings.

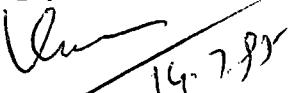
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11. We have carefully considered this matter. For two reasons, we are unable to agree that this irregularity vitiates the final decision taken. In the first place, the applicant had not taken this objection when the memo of charges was issued to him. He states that even before he could give a reply, an Inquiry Officer had already been appointed. That, however, did not prevent him from giving a reply stating that as the memo of charges was incompetent, he would not submit his reply thereto. Not having done so, he cannot raise this objection at this stage.

12. In our view, Rule 13(3) is permissive in character and it is not mandatory. Stated differently, it is not prohibitory in character. It does not state in terms that no authority other than those mentioned therein can initiate the disciplinary proceedings. It is not as if the Assistant Superintendent Post Offices, is a total outsider and has no power at all. He is a supervisor who also supervises all the post offices in a sub-division including the post office where the applicant was working. Nor can we hold that merely because he initiated the proceedings, the final order would be bad. The applicant has no case that the final order has been passed by an incompetent authority. That being the case mere irregularity, if any, in commencing the disciplinary proceedings, will not vitiate the final result thereof.

13. In the view which we are taking in the matter, we do not find it necessary to go into the other grounds raised by the applicant. We are ~~not~~ satisfied that there is no merit in this application and accordingly it is dismissed.


(Dr. A. Vedavalli)
Member(J)


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(N.V. Krishnan)
Vice Chairman(A)